

**SUPREME COURT CALENDAR
LOS ANGELES SESSION
JUNE 4, 5, and 6, 2002
(SECOND AMENDED)**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, 3rd Floor, North Tower, Los Angeles, California, on June 4, 5, and 6, 2002.

TUESDAY, JUNE 4, 2002—2:00 P.M.

- (1) S094490 People v. Mower
(Baxter, J., not participating. Mihara, J., assigned Justice Pro Tempore.)
- (2) S099542 People v. Superior Court (Jimenez)
- (3) S092183 People v. Farell

WEDNESDAY, JUNE 5, 2002—9:00 A.M.

- (4) S093628 City of Los Angeles v. S.C. (Brandon)
- (5) S086611 People v. Mar
(Baxter, J., not participating. O'Rourke, J., assigned Justice Pro Tempore.)
- (6) S088712 People v. Storm

1:30 P.M.

- (7) S096127 Zuckerman v. Board of Chiropractic Examiners
- (8) S091459 People v. Totari
- (9) S032736 People v. Maurice Boyette *[Automatic Appeal]*
(To be called and continued to September.)
- (10) S017657 Jesse Andrews on Habeas Corpus
(George, C.J., not participating. Morrison, J., assigned Justice Pro Tempore.)

THURSDAY, JUNE 6, 2002—9:00 A.M.

- (11) S094877 Equilon Enterprises v. Consumer Cause
- (12) S099999 City of Cotati v. Cashman
- (13) S095000 Navellier v. Sletten

1:30 P.M.

- (14) S097444 Wilson v. Parker, Covert & Chidester
- (15) S090337 Mycogen Corp. v. Monsanto Co.
(Baxter, J., not participating. O'Leary, J., assigned Justice Pro Tempore.)
- (16) S016081 People v. Maureen McDermott *[Automatic Appeal]*

GEORGE
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.

**SUPREME COURT CALENDAR
LOS ANGELES SESSION
JUNE 4, 5, and 6, 2002
(SECOND AMENDED)**

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, JUNE 4, 2002—2:00 P.M.

(1) People v. Mower, S094490 (Baxter, J., not participating. Mihara, J., assigned Justice pro Tempore.)

#01-27 People v. Mower, S094490. (F030690; 85 Cal.App.4th 290.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case includes the following issues: (1) Does the Compassionate Use Act (Health & Saf. Code, § 11362.5), which provides that the crimes of possession and cultivation of marijuana “shall not apply” to qualified patients and primary caregivers under specified circumstances, grant such persons an immunity from prosecution that may be raised prior to trial, as well as an affirmative defense that may be raised at trial, and if so what is the nature of that immunity? (2) With regard to the affirmative defense created by the act, who bears the burden of proof and how is that burden of proof defined?

(2) People v. Superior Court (Jimenez), S099542

#01-126 People v. Superior Court (Jimenez), S099542. (B148656; 90 Cal.App.4th 267.) Petition for review after the Court of Appeal granted a petition for a peremptory writ of mandate. This case presents the following issue: When the prosecution refiles criminal charges following the grant of a motion to suppress evidence and the dismissal of the initial charges, is the right of the prosecution to exercise a peremptory challenge to a judge or magistrate under Code of Civil Procedure section 170.6 limited by Penal Code section 1538.5(p), which provides that relitigation of the motion to suppress evidence “shall be heard by the same judge who granted the motion at the first hearing if the judge is available?”

(3) People v. Farell, S092183

#00-153 People v. Farell, S092183. (H019633.) Unpublished opinion. Petition for review after the Court of Appeal reversed and remanded for resentencing and otherwise

affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Does Penal Code section 1203.44, which prescribes particular punishment when a defendant is convicted of felony theft “of an amount exceeding fifty thousand dollars” in a single occurrence, apply when the theft is of property other than cash?

WEDNESDAY, JUNE 5, 2002—9:00 A.M.

(4) *City of Los Angeles v. S.C. (Brandon)*, S093628

#01-04 *City of Los Angeles v. S.C. (Brandon)*, S093628. (B143088; 84 Cal.App.4th 767.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case includes the following issue: Can a trial court, acting on a *Pitchess* motion (*Pitchess v. Superior Court* (1974) 11 Cal.3d 531), require an agency to produce and disclose peace officer personnel records that are more than five years old, despite the statutory bar (Evid. Code, § 1045(b)(1)) on disclosure of such documents?

(5) *People v. Mar*, S086611 (*Baxter, J., not participating. O’Rourke, J., assigned Justice Pro Tempore*)

#00-64 *People v. Mar*, S086611. (F028945; 77 Cal.App.4th 1284.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case includes the following issues: (1) Does the use of a stun belt on a criminal defendant during trial require a showing of “manifest need” under *People v. Duran* (1976) 16 Cal.3d 282? (2) If so, was there a proper showing for use of the belt in this case? (3) If there was not a proper showing, was the use of the belt prejudicial?

(6) *People v. Storm*, S088712

#00-103 *People v. Storm*, S088712. (D030950; 79 Cal.App.4th 1324.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case includes the following issues: (1) Was defendant’s release from custody “pretextual” where officers violated defendant’s rights under *Miranda* by questioning him after he invoked his right to counsel and then released him from custody in recognition of that violation, but intended to reinitiate contact with him later? (2) Under these circumstances, were *Miranda* warnings required for all subsequent police questioning of defendant, even in a non-custodial context?

1:30 P.M.

(7) Zuckerman v. Board of Chiropractic Examiners, S096127

#01-52 Zuckerman v. Board of Chiropractic Examiners, S096127. (B135896.)

Unpublished opinion. Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a proceeding for writ of administrative mandate. This case presents the following issue: Is a regulation that requires a disciplined chiropractor to pay the reasonable costs of investigating and prosecuting the disciplinary proceeding unconstitutional on its face?

(8) People v. Totari, S091459

#00-147 People v. Totari, S091459. (H019719.) Unpublished opinion. Petition for review after the Court of Appeal dismissed an appeal from an order denying a motion to vacate judgment. This case presents the following issue: Is an order denying a motion under Penal Code section 1016.5 to vacate a final judgment of conviction and allow withdrawal of a guilty plea an appealable order?

(9) People v. Maurice Boyette, S032736 [Automatic Appeal] (To be called and continued to September.)

(10) Jesse Andrews on Habeas Corpus, S017657 (George, C.J., not participating. Morrison, J., assigned Justice Pro Tempore.)

Original proceeding related to automatic appeal in *People v. Andrews* (1989) 49 Cal.3d 200. This case presents the following issue: Was defendant in this death penalty case denied the effective assistance of counsel by his trial counsel's failure to present mitigating evidence at the penalty phase of the trial?

THURSDAY, JUNE 6, 2002—9:00 A.M.

(11) Equilon Enterprises v. Consumer Cause, S094877

#01-36 Equilon Enterprises v. Consumer Cause, S094877. (B130701; 85 Cal.App.4th 654.) Petition for review after the Court of Appeal affirmed a judgment dismissing a civil action.

(12) City of Cotati v. Cashman, S099999

#01-136 City of Cotati v. Cashman, S099999. (A092242; 90 Cal.App.4th 796.) Petition for review after the Court of Appeal reversed the judgment in a civil action.

(13) *Navellier v. Sletten*, S095000

#01-37 *Navellier v. Sletten*, S095000. (A090058.) Unpublished opinion. Petition for review after the Court of Appeal affirmed an order denying a special motion to strike under Code of Civil Procedure section 425.16.

Equilon Enterprises, City of Cotati, and Navellier all include the following issue: Must a defendant seeking the dismissal of an action under the anti-SLAPP statute (Code Civ. Proc., § 425.16) show that the action was brought with the intent to chill the defendant's exercise of the constitutional rights of free speech or to petition the government for redress of grievances?

1:30 P.M.

(14) *Wilson v. Parker, Covert & Chidester*, S097444

#01-68 *Wilson v. Parker, Covert & Chidester*, S097444. (E025710, E025832, E026853; 87 Cal.App.4th 1337.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does a trial court's interim rulings in a prior action (i) granting a preliminary injunction and (ii) denying a special motion under the anti-SLAPP statute (Code Civ. Proc., § 425.16) to strike a claim for damages, give rise to a presumption that the prior action was brought with probable cause, precluding the defendant in the prior action from instituting a subsequent action for malicious prosecution?

(15) *Mycogen Corp. v. Monsanto Co.*, S090337 (*Baxter, J., not participating. O'Leary, J., assigned Justice Pro Tempore.*)

#00-133 *Mycogen Corp. v. Monsanto Co.*, S090337. (D031046, D031336, D032171.) Unpublished opinion. Petition for review after the Court of Appeal reversed a judgment and affirmed and reversed ancillary orders in a civil action. This case includes the following issue: When a plaintiff obtains a judgment for declaratory relief and specific performance based on breach of contract, does res judicata operate to bar the plaintiff from bringing a second action to obtain damages based on the same breach of contract?.

(16) *People v. Maureen McDermott*, S016081 [*Automatic Appeal*]

This matter is an automatic appeal from a judgment of death.